

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

R. E., et al.,

Plaintiffs,

v.

PACIFIC FERTILITY CENTER, et al.,

Defendants.

Case No.18-cv-01586-JSC

**ORDER RE: RENEWED
ADMINISTRATIVE MOTION TO SEAL**

Re: Dkt. No. 190

The Court is in receipt of Defendants' renewed administrative motion to seal exhibits submitted with the Declaration of Adam Polk filed in support of Plaintiffs' opposition to Defendants' motion to compel arbitration and the joinders thereto. (Dkt. No. 190.) The motion is GRANTED IN PART and DENIED IN PART.

The motion is GRANTED as to:

- Exhibit 1: Recitals and Agreement, Articles 1-7, Article 8 Sections 8.1-8.7 and 8.9, Articles 9-12, Article 13 Sections 13.1(b)-(d), Articles 14-16, Exhibits 4.3(h) and 12.3
- Exhibit 5: Paragraphs 3-4, 7, 8(a), 9 and Schedule 4(b)
- Exhibit 7: Paragraphs 3-4, 7, 8(a), and 9

The motion is DENIED as to:

- Exhibit 5: Paragraphs 5 and 8(b)
- Exhibit 7: Paragraphs 5 and 8(b)

Defendants have failed to demonstrate that this information is confidential and Defendants put these paragraphs at issue through their motions to compel arbitration. *See Murphy v. DirecTV, Inc.*, 724 F.3d 1218, 1233 n.9 (9th Cir. 2013) (holding that Best Buy waived any claim of

1 confidentiality by arguing that it was acting as DirectTV's agent noting that "[t]he agreement, the
2 contents of which are highly probative of the question at hand, makes clear that the companies
3 agreed that exactly the opposite was true"); *Orlob-Radford v. Midland Funding LLC*, No. 2:15-
4 CV-00307-JLQ, 2016 WL 5859002, at *8 (E.D. Wash. Oct. 5, 2016) (denying motion to seal
5 because the motion to compel arbitration "strikes at the heart of Plaintiff's case: whether Plaintiff
6 may bring her claims in federal court and whether she may bring class action claims" and the
7 documents containing the arbitration agreement were essential to this question).

8 This Order disposes of Docket No. 190.

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10 **IT IS SO ORDERED.**

11 Dated: March 25, 2019

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14 JACQUELINE SCOTT CORLEY
15 United States Magistrate Judge
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